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May 21, 1998

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**RE: REVISION OF MAXIMUM COLLECTION AMOUNTS FOR
SCHOOLS AND LIBRARIES AND RURAL HEALTH CARE
PROVIDERS (CC DOCKET NO. 96-45)**

To Whom it May Concern:

Enclosed please find comments from the Rural Policy Research Institute Rural Telecommunications Panel, responding to the FCC Common Carrier Bureau Public Notice for Comments on the Revision of Maximum Collection Amounts for Schools and Libraries and Rural Health Care Providers (CC Docket No. 96-45, DA 98-872). Panel Chairperson Vicki Hobbs authored this response, on behalf of this Panel.

We appreciate your consideration of this perspective.

Sincerely,

Charles W. Fluharty

Charles W. Fluharty
Director

CWF/lc

Enclosure

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**Comments From
Rural Policy Research Institute
Rural Telecommunications Panel
May 21, 1998**

**To the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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MAY 22 1998

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In the Matter of)
)
Revision of Maximum)
Collection Amounts for)
Schools and Libraries and)
Rural Health Care Providers,)
Public Notice)

CC Docket No. 96-45

DA 98-872

To the Common Carrier Bureau:

(An electronic submission is being made as an exact copy of formal comments)

**COMMENTS OF
RUPRI Rural Telecommunications Panel**

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I. Total Collections/Disbursements for Schools and Libraries

In excess of 30,000 applications for discounted communications have been received by the Schools and Libraries Corporation from schools and libraries during the 75-day window. The stated purpose of the application window was to insure that all applications received during the February 1 - April 15, 1998 time period would be treated as if simultaneously received, thereby providing no advantage or penalty to those applicants filing within the window. There were three implications associated with the decision to utilize an application window: (1) the frenetic urgency for schools and libraries to file applications would no longer be imposed; (2) the disadvantage to smaller schools and libraries with fewer staff members available to complete the application process would be ameliorated; and (3) schools and libraries filing within the 75-day window would be assured of funding. While not explicitly stated by the Schools and Libraries Corporation or the Commission, these three factors were implied by the administrators/regulators and were self-evident to the applicants. The huge response of the education and library communities speaks both to the need for discounted telecommunications services, as well as to the good faith response to an application process in which schools/libraries had no knowledge and to an industry mechanism, i.e., a universal service program, in which they had no prior experience. In concept, the library and education communities wanted to believe in the vision espoused by the E-Rate program, but they were initially wary. Why would any small school believe that a distance learning network, heretofore beyond the realm of fiscal reach because of ongoing line lease costs, might now be affordable? That skepticism was slowly but pervasively overcome through a vast, unprecedented response network through which the telecom legislation, Commission regulations, SLC guidelines, and translations of each blanketed the country. Where disbelief had been widespread, a hopeful skepticism emerged; where cynicism had been rampant, optimists rose among the rank and file. It is with this knowledge of the transformation of the education and library communities that the proponents of abandoning, delaying, or limiting the Universal Service Fund for schools and libraries below its \$2.25B cap must justify their position.

The good faith obligations of the legislators of the '96 Telecom Act, of the Commission, and of the SLC should not be minimized or easily dismissed. The schools and libraries of this country have entered into a binding agreement with the administrators and regulators of the E-Rate program. To ignore their obligation at this point or to continue the current political machinations would be an irreparable disservice to those children and communities who could most benefit from affordable advanced telecommunications services.

It is in this light that the Commission should consider:

- (1) holding firm on the \$2.25B cap for the Universal Service Fund for schools and libraries;
- (2) directing the collection of universal service contributions up to the applicant-documented level of demand among schools and libraries filing within the 75-day window;

- (3) increasing the 3rd quarter collection rate to \$524M which is equivalent to the approximated amount by which universal service collection rates can increase without exceeding the reduction in access charge fees;
- (4) considering the likelihood that statistical approximation will overestimate the total dollar demand for discounted rates to schools and libraries, given the unlikelihood that all requested telecommunications services will be carried out or will occur within FY98;
- (5) postponing the determination of 4th Quarter collection rates until the exact dollar demand for E-Rate discounts is determined for 1998; and,
- (6) delaying the reimbursement to school/library telecommunications providers until the 1st Quarter of 1999 in the unlikely event the FY98 actual demand exceeds \$1.67B.

II. Circumstances in Which Prioritization of Applications Received Within the 75-Day Window Would Apply

Only in the event that a significant increase exists in the amount of actual vs. estimated demand for E-Rate funds and/or in the event of a significant decrease in the actual vs. estimated amount of reduction in access charges, should it be necessary to prioritize applications received within the 75-day window. Should either or both of these circumstances apply, it may be appropriate to prioritize bona fide requests filed within the window and to restrict funding of applications on the basis of need. However, every effort should be made to retroactively fund low-priority applications in FY99.

If this measure becomes necessary to *legitimately* avoid an increase in consumer long distance rates, fairness would dictate that the definition of need be extended beyond the use of free/reduced lunch eligibility rates as an approximation of *need*. Automatic approval should exist for all applicants located in a 'high cost' area, as defined by existing telecommunications policy and determined by zip code. For the remainder of the applicants, prioritized approval would be awarded on the basis of percentage of free/reduced lunch eligibility up to the effective dollar limit of collections.

Three reasons support this expanded definition of need:

- (1) Sole reliance on free and reduced lunch eligibility, as noted in previous filings, unfairly undercounts students in many small, rural districts because of the stigmatization associated with the program, especially at the junior and senior high levels.
- (2) The ability to pay for or afford telecommunications services is only half of the issue. It can be argued that any school whose pre-discount cost of service is

markedly higher AND whose ability to pay is low should receive priority over a school/library whose pre-discount cost of service is lower, but who has an equal ability to pay.

- (3) Basing approval of school/library applications on their 'rural' designation rather than on their 'high cost' status unnecessarily pits urban against rural. The issue should not be one of metro or non-metro location, per se, but rather a reflection of the relative total price after discount. Clearly, a school in a high cost area receiving a 50% discount may pay as much as two to three times the discounted amount paid by a school located in a low-cost area having an equivalent free/reduced lunch eligibility rate.

III. The Applicability of Weighing Provider Collections Against Reductions in Access Fees

It can be presumed, given a deregulated long distance telecommunications arena, that all providers will attempt to maximize their profits by whatever means is available to them. They are likely to be neither compelled by promotion of the 'common good' nor deterred by self-regulation of profit. This is the realism of competition. It therefore follows that to expect contributors to the Universal Service Fund to voluntarily reduce their profits while the option exists to pass the cost of universal service contributions on to consumers is neither likely nor plausible. The Commission has recommended that for FY98 the total amount of universal service collections--and therefore E-Rate disbursements--be set at an amount which would not increase the total access and universal service payments paid by long distance carriers. This amount is judged to be \$1.673B based on collection of \$300M, \$325M, \$524M, and \$524M for each quarter of 1998, respectively.

While there is no *a priori* reason to equate the amount which should be paid by long distance carriers into the Universal Service Fund for schools and libraries with reductions in access charges, it is nevertheless both convenient and logical to assume that if there is no increase required in the total amount of contributions on the part of long distance carriers, it is therefore a misrepresentation to consumers to ask that the contributions be passed on to consumers. The position of Commissioner Furchtgott-Roth raises both regulatory and policy confusion in that it both legitimizes an escalation in long distance carrier profits while no net increase in carrier contribution is required *and* it presumes to add fuel to the fire of consumer 'rate churn' by advocating immediate reductions in long distance bills before the entire demand for universal service funds is known. Furchtgott-Roth upholds the right of carriers to increase profits, upholds the rights of consumers for decreased long distance rates, but ignores the good-faith agreement entered into between the Commission and U.S. schools and libraries.

IV. Additional Comments as Requested by Commissioner Furchtgott-Roth

- The size of the school and library fund, i.e., cap, should remain at \$2.25B as previously determined.

- All long distance carriers, including wireless and others who do not pay access charges, should continue to be required to contribute equally to the Universal Service Fund. The fact that wireless (and other) carriers have received no benefits from the reduction in access charges has no bearing on the decision that *all* providers contribute to the fund.
- Postponement of the schools and libraries program until January, 1999, would be in no one's best interest, with the exception of the long distance carriers. It would be a denigration of the compact between Congress, the Commission, and the school and library communities.
- Preservation or reworking of the High Cost Fund has no bearing on the issue at hand. Should it be subsequently necessary to equitably adjust collective contributions to all universal service mechanisms, such adjustment should be based on fact rather than speculation. Until a negotiated basis for cost is settled among non-rural carriers *and* later by rural carriers--whether by proxy model or other method--it is impossible to determine the aggregate size of the collective universal service program.
- Consumer benefit will occur first and foremost by Commission policy which does not protect the profits of long distance carriers at the expense of all consumers, including schools, libraries, rural health care providers, and the constituents they serve.
- The issue of whether to deny or de-prioritize the discounted coverage of inside wiring should not be addressed at this late date. Regardless of the opinions -- pro and con -- and its ultimate placement in or outside the designation of 'telecommunication services', ample prior opportunity existed to rescind this coverage. But to do so at this point would be both premature, pending any litigation, and a breach of faith with the public school students and library patrons in the country.
- Much of the criticism of the E-Rate program, as espoused by Commissioner Furchtgott-Roth, appears to ignore the reality that a substantial portion of the \$2.02B in approximate FY98 demand does not represent an ongoing demand for universal service funds. In addition to the obvious one-time cost of inside wiring--although it is realized that others schools and libraries may subsequently apply--there is a significant, but presently uncalculated, amount of other one-time costs associated with initiation of most telecommunications services.
- Finally, the Commission should seek to resolve internal disagreements within the confines of existing methods and policies, sparing end-users, e.g., schools and libraries, from needless regulatory confusion.